



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2022-0038; FXES11140800000-223-FF08EVEN00]

Habitat Conservation Plan for Three Species in Los Alamos, California; Categorical Exclusion for the Legacy Homes Development Project; Santa Barbara County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and draft categorical exclusion (CatEx) for activities associated with an application for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended. The ITP would authorize take of the federally threatened California red-legged frog, endangered California tiger salamander (Santa Barbara County distinct population segment), and non-listed western spadefoot toad, incidental to activities associated with the Legacy Homes Tract No. 14608 Development Project. The applicant developed the draft HCP as part of their application for an ITP. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite public comment on these documents.

DATES: Written comments should be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: *To obtain documents:* You may obtain copies of the documents online in Docket No. FWS-R8-ES-2022-0038 at <https://www.regulations.gov>, or you may request

copies of the documents by U.S. mail (below) or by email (see **FOR FURTHER INFORMATION CONTACT**).

To submit comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R8-ES-2022-0038.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS-R8-ES-2022-0038; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Amy Hughes, Fish and Wildlife Biologist, amy_hughes@fws.gov (by email), or at the Ventura Fish and Wildlife office (by telephone at 805-644-1766, or by mail; see **ADDRESSES**). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and draft low-effect screening form and environmental action statement for activities associated with an application for an incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant has developed a draft habitat conservation plan (HCP) that includes measures to minimize, avoid, and mitigate impacts to the federally threatened California red-legged frog (*Rana draytonii*), the federally endangered California tiger salamander (*Ambystoma californiense*), and the non-listed western spadefoot toad (*Spea hammondi*). The permit would authorize take of any of the three species incidental to otherwise lawful activities

associated with the draft HCP for the Legacy Homes Tract No. 14608 Development Project. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite public comment on these documents.

Background

The Service listed the California red-legged frog as threatened on May 23, 1996 (61 FR 25813), and the California tiger salamander as endangered on September 21, 2000 (65 FR 57242). The western spadefoot toad is currently under the Service's review for listing pursuant to the ESA (80 FR 37568). Section 9 of the ESA (16 U.S.C. 1538) prohibits the "take" of fish or wildlife species listed as endangered; by regulation, the Service may extend the take prohibition to fish or wildlife species listed as threatened. "Take" is defined under the ESA to include the following activities: "[T]o harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize incidental take of listed wildlife species. Incidental take is take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened wildlife are in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 17.32, respectively. Issuance of an incidental take permit also must not jeopardize the existence of federally listed fish, wildlife, or plant species.

Proposed Project Activities

Legacy Homes has applied for a permit for incidental take of the California red-legged frog, California tiger salamander, and western spadefoot toad. The take would occur in association with activities including the conversion of agricultural land to a 59-

lot residential development prepared for future home construction, within a 16.67-acre project area. The project area does not contain suitable aquatic habitat for any of the three species, but individuals may use the area as dispersal or upland habitat, as there are aquatic features within the dispersal distances of all species from the project site. The HCP includes avoidance and minimization measures for the California red-legged frog, California tiger salamander, and western spadefoot toad as well as mitigation for unavoidable loss of suitable habitat through the purchase of conservation credits at a Service-approved conservation bank and species account.

Public Comments

If you wish to comment on the draft HCP and categorical exclusion screening form, you may submit comments by one of the methods in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

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Ventura Fish and Wildlife Office,
Ventura, California.

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